

ISABELLE FULLER

MAY 14, 1942.—Ordered to be printed

Mr. ROSIER, from the Committee on Claims, submitted the following

REPORT

[To accompany S. 2420]

The Committee on Claims, to whom was referred the bill (S. 2420) for the relief of Isabelle Fuller, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

This bill, to which the War Department offers no objection, provides for the payment of \$500 to Isabelle Fuller, of Orlando, Fla., in full satisfaction of her claims against the United States for reimbursement of medical and hospital expenses incurred by her and for compensation for personal injuries sustained by her as the result of the automobile driven by her husband, H. H. Fuller, and in which she was riding as a passenger, having been struck by a United States Army truck in Orlando, Fla., on December 13, 1940.

The records of the War Department show that on December 13, 1940, at about 2:30 p. m., an Army carry-all, on official business, operated by an enlisted man, with five other enlisted men as passengers was proceeding west on South Street, in or near the city of Orlando Fla., at a speed variously estimated at from 20 to 30 miles per hour, and approaching the intersection of South and Bumby Streets. The weather was clear and the roadway was good. It appears that caution signs are posted on all four approaches to the intersection. At the same time a Chevrolet sedan, owned and operated by Henry H. Fuller, of South Bumby Street, Orlando, with his wife, Mrs. Isabelle Fuller, as passenger, was proceeding north on Bumby Street, at a speed of about 15 to 20 miles per hour and approaching the same intersection. The two vehicles entered the intersection and collided at a point not far from the northeast corner, the Army carry-all striking the Chevrolet sedan on the right side of the latter at about the front fender.

As a result of the accident, the Chevrolet sedan was extensively damaged, and Mrs. Fuller sustained a broken collarbone and a bruise on the forehead.

It is admitted by the War Department that the cause of the accident was negligence on the part of the Government driver, in that he approached the intersection at too great a speed for proper control of his vehicle.

In reporting on the merits of the claim, the Secretary of War states:

Since it appears that the injuries suffered by Mrs. Fuller were incurred through no fault or negligence on her part but rather through negligence on the part of the Government driver, the Department, while not prepared to pass on the amount that should be allowed her under the circumstances, will interpose no objection to the enactment of legislation reimbursing and compensating her in such amount as the Congress in its discretion may deem proper.

The letter from the Secretary of War is appended hereto and made a part of this report.

WAR DEPARTMENT,
Washington, April 23, 1942.

HON. PRENTISS M. BROWN,
Chairman, Committee on Claims, United States Senate.

DEAR SENATOR BROWN: The War Department will interpose no objection to the enactment of S. 2420, Seventy-seventh Congress, second session, a bill which would reimburse Isabelle Fuller, Orlando, Fla., for medical and hospital expenses incurred by her and compensate her for personal injuries sustained as a result of an accident involving the automobile in which she was riding as a passenger and a United States Army truck in Orlando, Fla., on December 13, 1940.

On December 13, 1940, at about 2:30 p. m., an Army carry-all, on official business, operated by an enlisted man, with five other enlisted men as passengers, was proceeding west on South Street, in or near the city of Orlando, Fla., at a speed variously estimated at from 20 to 30 miles per hour, and approaching the intersection of South and Bumby Streets. The weather was clear and the roadway was good. It appears that caution signs are posted on all four approaches to the intersection. At the same time a Chevrolet sedan, owned and operated by Henry H. Fuller, of South Bumby Street, Orlando, with his wife, Mrs. Isabelle Fuller, as passenger, was proceeding north on Bumby Street, at a speed of about 15 or 20 miles per hour and approaching the same intersection. The two vehicles entered the intersection and collided at a point not far from the northeast corner, the Army carry-all striking the Chevrolet sedan on the right side of the latter at about the front fender.

As a result of the accident, the Chevrolet sedan was extensively damaged, and Mrs. Fuller sustained a broken collarbone and a bruise on the forehead.

Although there is considerable discrepancy between the statements of the various witnesses to the accident as to which vehicle was the first to enter the intersection, thereby establishing for itself the right-of-way, the preponderance of the evidence appears to indicate that the civilian vehicle reached and entered the intersection first, and had, in fact, proceeded to a point not far from the northeast corner of the intersection, having crossed more than half the width of the street, before it was struck by the Army carry-all, which at the moment of impact had just entered the intersection.

A claim was filed with the War Department by Mr. Fuller in the amounts of \$500 for personal injuries sustained by Mrs. Fuller, and \$186 for the damage to his car. The claim for personal injuries was supported in part by statements rendered by the Florida Sanitarium and Hospital, Orlando, Fla., in a total amount of \$42.45.

Upon review in the War Department, the claim of Mr. Fuller for damage to his car was approved in the amount of \$25 (amount of damages not covered by insurance) for settlement under the provisions of the Act of December 28, 1922 (42 Stat. 1066), it being the view of the Department that the proximate cause of the accident was negligence on the part of the Government driver in that he approached the intersection at too great a speed for proper control and proceeded into it after the claimant had entered and had completed crossing approximately

one-half thereof, thus failing to yield to the claimant's car the right-of-way to which it was entitled by reason of having entered the intersection first. The claim for personal injuries was necessarily disapproved, since there is no law or appropriation available to the Department for the settlement of claims for personal injuries or expenses incident thereto arising out of activities of the Army involving motor vehicles.

Since it appears that the injuries suffered by Mrs. Fuller were incurred through no fault or negligence on her part but rather through negligence on the part of the Government driver, the Department, while not prepared to pass on the amount that should be allowed her under the circumstances, will interpose no objection to the enactment of legislation reimbursing and compensating her in such amount as the Congress in its discretion may deem proper.

Sincerely yours,

HENRY L. STIMSON, *Secretary of War.*

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